

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, JANUARY 16, 2001
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:04 a.m. Mayor Murphy adjourned the meeting at 11:30 a.m. to meet in Closed Session in the twelfth floor conference room to discuss existing litigation.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
 - (1) Council Member Peters-present
 - (2) Council Member Wear-present
 - (3) Council Member Atkins-present
 - (4) Council Member Stevens-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Stallings-not present
 - (7) Council Member Madaffer-present
 - (8) Council District-vacant
- Clerk-Abdelnour (ew)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Stallings-not present
- (7) Council Member Madaffer-present
- (8) Council District-vacant

ITEM-10: INVOCATION

Invocation was given by Bishop Samir Kafiety of Saint Bartholomew's Church and former President Bishop Of Jerusalem and the Middle East.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Peters.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

12/11/2000
12/12/2000
12/18/2000 Adjourned

12/19/2000 Adjourned
12/25/2000 Adjourned
12/26/2000 Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A060-067.)

MOTION BY STEVENS TO APPROVE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

ITEM-31: Lori Hottel Day.

DEPUTY MAYOR STEVENS'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1001) ADOPTED AS RESOLUTION R-294441

Commending Lori Hottel for her service to the City and proclaiming January 16, 2001 to be "Lori Hottel Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A068-070; A269-330.)

MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Al Strohlein regarding his article that was published in the Reader on Thursday concerning Mission Bay and his suspicions that it is being sold to the commercial interest that surround it.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A080-122.)

PUBLIC COMMENT-2:

Comment by Darlene Baker Sumner requesting to have police communications and surveillance devices removed from her body.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A123-145.)

PUBLIC COMMENT-3:

Comment by Dorie Offerman stating that the community of De Anza for years was virtually sterile when developing friendships. She further stated that De Anza is their dream come true where friendships developed like never before.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A146-180.)

PUBLIC COMMENT-4:

Comment by Barbara Mackenzie regarding the response to a request from the City Manager's Office about information to be put into the Public District Libraries regarding legal decisions related to the Compassionate Use Act. She commented that the 9th Circuit Court of Appeal decisions, and the State Supreme Court ruling on returning patient's plants to them if they were taken from the patient, should be made public so that the public is made aware of the information.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A181-226.)

PUBLIC COMMENT-5:

Comment by Ken Loch regarding his discussion with CCDC about his claim of being a renaissance genius and announced that he started a page that can be linked to.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A227-330.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Comments by Council Member Atkins welcoming and introducing special guests from St. Didacus School in Normal Heights; and secondly, announcing that she attended Helen Burk Herman's birthday party this past Saturday held at Tom Ham's Lighthouse. Council Member Atkins wished Ms. Herman a "Happy Birthday" who turns 100 years old today.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A331-379.)

COUNCIL COMMENT-2:

Comments by Council Member Stevens reminding the Council about the plight of the residences of De Anza Mobile Home Park on Mission Bay; and about Mr. Strohlein's support about Mission Bay Park.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A380-390.)

* ITEM-50: Office Space Lease Amendment - Executive Complex Building.

(Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2001-98) INTRODUCED, TO BE ADOPTED ON JANUARY 30, 2001

Introduction of an Ordinance authorizing the City Manager to execute a Third Amendment to Lease with Executive One Associates for additional office space of approximately 2,552 square feet on the 13th floor of the Executive Complex Building, for the Employee Assistance Program, commencing December 1, 2000, for a term of approximately 13 years, at an initial monthly rent of \$3,419.68;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$24,473.68 from Fund 50061, Department 084, for rent from the FY2001 budget.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

The Employee Assistance Program's (EAP) existing lease at 225 Broadway is terminating November 30, 2000. The Landlord will not be renewing EAP's lease. Similar relocation space was found on the 13th floor of the Executive Complex Building, at 1010 Second Avenue. EAP is proposing to lease the space under the following basic terms:

TERM - Approximately 13 years. The space will be available for occupancy December 1, 2000.

RENT - \$1.34 per square foot or \$3,419.68 per month. Rent will increase to \$1.41 per square foot effective April 1, 2001. Rent is below market as compared to similar buildings in the downtown area.

USE - General office usage.

SIZE - 2,552 square feet.

TENANT IMPROVEMENTS - Landlord will install the tenant improvements at Landlord's sole cost and expense. The cost of the improvements is estimated at \$63,800.

FISCAL IMPACT:

\$24,473.68 will be paid from Fund 50061, Dept. 084 for rent from the FY 2001 Budget.

Loveland/Griffith/DLM

Aud. Cert. 2100740.

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: A410-443.)

MOTION BY WEAR TO INTRODUCE THE ORDINANCE. Second by Madaffer.
Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea,
Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor
Murphy-yea.

* ITEM-100: Closing an Alley West of 34th Street.

(Normal Heights Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-983) ADOPTED AS RESOLUTION R-294442

Declaring that the portion of the alley parallel to and west of 34th Street, north of Madison Avenue that divides the campus of St. Didacus School, is closed to vehicular traffic pursuant to the authority granted by California Vehicle Code Section 21102.

CITY MANAGER SUPPORTING INFORMATION:

This action closes to vehicular traffic a portion of the alley parallel to and west of 34th Street, north of Madison Avenue. The campus of St. Didacus School is on both sides of the portion of the alley proposed for closure. St. Didacus School officials indicated that they have notified owners of all properties adjacent to the alley of the proposed alley closure. The closure will not preclude access to non-school property. The City Council is authorized to close a roadway that divides a school ground, according to California Vehicle Code Section 21102.

FISCAL IMPACT:

Fiscal impact is minimal. Funds are budgeted within the Transportation Department Street Division's operating fund for this purpose.

Belock/Gonzalez/AH

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A410-443.)

MOTION BY WEAR TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

* ITEM-101: Six actions related to Authorizing Suggestion Awards to City Employees.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2001-995) ADOPTED AS RESOLUTION R-294443

Carlos Bravo - Engineering & Capital Projects Department - \$2,132.25

Subitem-B: (R-2001-996) ADOPTED AS RESOLUTION R-294444

Billy A. Church - Neighborhood Code Compliance Department - \$3,924.80

Subitem-C: (R-2001-997) ADOPTED AS RESOLUTION R-294445

George Elam, III - Fire & Life Safety Department - \$160

James Raines - Fire & Life Safety Department - \$320

Subitem-D: (R-2001-998) ADOPTED AS RESOLUTION R-294446

Shannon McKeirnan/Benjamin Lopez - Metropolitan Wastewater Department -
\$500 award to be divided equally (\$250 each)

Subitem-E: (R-2001-999) ADOPTED AS RESOLUTION R-294447

Margaret McLaughlin-Pack - Treasurer Department - \$500

Subitem-F: (R-2001-1000) ADOPTED AS RESOLUTION R-294448

Anthony L. Pernicano - Fire and Life Safety Department - \$160

FILE LOCATION: Subitems A-F: MEET

COUNCIL ACTION: (Tape location: A410-443.)

MOTION BY WEAR TO ADOPT. Second by Madaffer. Passed by the following vote:
Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present,
Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

- * ITEM-102: Agreement with Little Italy Association for Administration of Maintenance Services for Little Italy Maintenance Assessment District.

(Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-985 Cor. Copy) ADOPTED AS RESOLUTION R-294449

Authorizing the City Manager to execute an agreement with Little Italy Association for administration of Contracts for Goods and Contracts for Service for the Little Italy Maintenance Assessment Agreement 3 for a period of one year in accordance with San Diego Municipal Code Section 65.0212;

Authorizing the expenditure of an amount not to exceed \$40,690 for the purpose of providing funds for administration services with Little Italy Association beginning January 1, 2001 through December 31, 2001.

CITY MANAGER SUPPORTING INFORMATION:

In accordance with the Maintenance Assessment District Ordinance, San Diego Municipal Code Section 65.0212 paragraph (b), the majority of the property owners in a Maintenance Assessment District may approve, by the use of a ballot, a Non-profit Corporation to administer the Contracts for Goods and Contracts for Services for a district. On August 7, 2000, ballots were received by the City Clerk from the property owners in the Little Italy Maintenance Assessment District (District) on the subject of whether to place the right to administer the District with the Little Italy Association (Association). The ballots were tabulated by the City Manager and weighted by the dollar amount of the assessments. Of the returned ballots, 70.7 % favored the District being administered by the Association. This action will authorize the City Manager to sign an Agreement between the City and the Association for a period of one year beginning on January 1, 2001 and ending on December 31, 2001. 1) The Association will administer Contracts for Goods and Contracts for Service and prepare financial statements for the District as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Engineer's Report for the Little Italy Maintenance Assessment District. 2) The Association will perform all duties as set forth in the Agreement under Article 1, Section B, referred to as specific requirements. The Association will be

reimbursed for these services within fifteen (15) working days from the receipt of properly prepared reimbursement requests. 3) The Association will be compensated for administration in an amount not to exceed 15% of the proposed budget which is currently \$40,690 (or \$3,390 per month) over the period of the Agreement.

FISCAL IMPACT:

Funds are available in the Little Italy Maintenance Assessment District (Fund 70261) to reimburse the Association for maintenance services and to compensate it for administration.

Loveland/McLatchy/SY

Aud. Cert. 2100696.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A410-443.)

MOTION BY WEAR TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

* ITEM-103: Lease Amendment between the City and Aviation International.

(Otay Mesa Community Area. District-8.)

ASSISTANT CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1003 Cor. Copy) ADOPTED AS RESOLUTION R-294450

Authorizing the Assistant City Manager to execute the First Amendment to Lease Agreement with Aviation International, which will expand the area currently being leased for a fixed operation at Brown Field Airport from 2.56 acres to the new total leasehold area of 3.76 acres, at the base rent of \$20,736 per year.

ASSISTANT CITY MANAGER SUPPORTING INFORMATION:

On December 1, 1998, City Council approved an aviation lease with Aviation Consulting International Corporation, dba, Aviation International, for a fixed base operation, (F.B.O.) at Brown Field Airport for a term of 35 years. The principal, Juan Escalante, has been a tenant at Brown Field for more than 20 years. The parties now wish to amend the lease to add a small contiguous parcel of 1.2 acres extending 200 feet south of the existing lease, to the proposed new alignment of Sikorsky Street. This action will not impede the BFAP redevelopment and the terms of the Amendment are consistent with those of the original Lease. The Lessee proposes to use the added parcel to develop a large executive aircraft hangar complete with a pilots lounge, washrooms, showers and flight planning. The facility will also include executive offices for the Lessee, as well as adequate parking and landscaping.

Premises: Original lease was for 2.56 acres. This Amendment will increase the total leasehold to 3.76 acres.

Term: Coterminous with the original lease, terminating November 30, 2033.

Rent: This Amendment will increase the rent by \$6,618 per year, resulting in total annual rent of \$20,736, to be adjusted to reflect changes in the Consumer Price Index (C.P.I.) at the end of the fifth, fifteenth and twenty-fifth years. The leasehold will also be appraised at the end of the tenth, twentieth and thirtieth years to reflect market rates.

Use: Provide fixed base operation services to the general aviation public, including charter flights, flight school, fuel sales, aircraft retrieval and repair, avionics shop, car rentals and catering.

FISCAL IMPACT:

Annual rent of \$6,618 will be deposited into the Airports Enterprise Fund.

Loveland/Griffith/MLM

FILE LOCATION: LEAS - Aviation Consulting International Corporation,
dba, Aviation International

COUNCIL ACTION: (Tape location: A410-443.)

MOTION BY WEAR TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

ITEM-200: Two actions related to Advertising for Bids for Water and Sewer Main Replacement Group 494.

(Linda Vista Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

Subitem-A: (R-2001-805) ADOPTED AS RESOLUTION R-294451

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of Water and Sewer Main Replacement Group 494 on Work Order No. 173191/181301;

Authorizing the City Manager to execute a contract with the lowest responsible bidder;

Authorizing the expenditure of an amount not to exceed \$1,242,250 from Water Fund No. 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, and \$449,322 from Sewer Fund No. 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for the expenditure are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Authorizing the use of City Forces to temporarily cut and plug and make all live connections of the water main for a cost not to exceed \$120,595. (BID-K01043C)

Subitem-B: (R-2001-806) ADOPTED AS RESOLUTION R-294452

Certifying that Mitigated Negative Declaration LDR-99-0653 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and State guidelines (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by Council in connection with the approval of Construction of Water and Sewer Main Replacement Group 494;

Declaring that the Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and approving said Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program.

CITY MANAGER SUPPORTING INFORMATION:

Water and Sewer Group 494 is part of the City of San Diego's continuing annual water and sewer main replacement program. This project will include the installation of approximately 4,940 feet of eight-inch (8") and twelve-inch (12") water main, and approximately 1,703 feet of eight-inch (8") sewer main. It also calls for the construction of 30 pedestrian ramps, and slurry sealing and resurfacing of the impacted City streets.

The following streets will be affected by construction operations: Burton Street, Coolidge Street, David Street, Rico Court, Phillips Court, Newbold Court, Sperry Court, Quinn Court, and Otis Court. Residents will be notified by the City, via mail, at least one (1) month prior to construction, and at least ten (10) days before the start of construction by the Contractor through hand distribution.

FISCAL IMPACT:

The total estimated cost of this project is \$1,691,572. Funding of \$1,242,250 is available from Water Fund No. 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, and \$449,322 from Sewer Fund No. 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, for this purpose. Included in the total estimate is \$120,595 for City Forces to make temporary cuts and plugs, connections, and perform operational checks.

Belock/Boekamp/HR

WWF-01-482.

FILE LOCATION: Subitems A & B: CONT - Ortiz Corporation;
W.O. 173191/181301

COUNCIL ACTION: (Tape location: A444-473.)

MOTION BY WEAR TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

ITEM-201: First Amendment to Agreement with URS for Consultant Services for Assessment and Remediation Plans of Solid Waste Burn Sites.

(City Heights and Linda Vista Community Areas. Districts-3 and 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1005) ADOPTED AS RESOLUTION R-294453

Authorizing the City Manager to execute a First Amendment to the Agreement with URS Consultants, for Consultant Services for Assessments and Remediation Plans of Solid Waste Burn Sites;

Authorizing the expenditure of an amount not to exceed \$225,000 from CIP-32-0100 (Annual Allocation - Unclassified Disposal Site Closure), Refuse Disposal Enterprise Fund.

CITY MANAGER SUPPORTING INFORMATION:

This proposed First Amendment to the Agreement will provide additional funds for consultant services to further assess and delineate the extent of contamination at burn sites identified as having been operated by the City or where the City placed trash. Once the full extent of the contamination has been confirmed, remediation options will be developed. URS was selected in accordance with AR 25.60. Five (5) consulting firms from the "As Needed Consultant" list were interviewed. URS was selected based on their work on similar projects and their experience working with the regulatory agencies, in particular the State Department of Toxic Substance Control which is generally the head agency in these matters.

FISCAL IMPACT:

Funds for this action are available in Refuse Disposal Enterprise Fund CIP-32-0100 (Annual Allocation - Unclassified Disposal Site Closure). This Amendment with URS shall not exceed \$225,000.

Herring/Epler/SMC

Aud. Cert. 2100718.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A474-643.)

MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

ITEM-330: Mortenson Residence.

(Continued from the meetings of October 24, 2000, Item 331, at the request of the applicant's attorney for further review, and December 12, 2000, Item 332; last continued at the request of staff for further review.)

Matter of the appeal of Veryl J. Mortenson, Trustee of the Veryl J. Mortenson Trust, from the decision of the Planning Commission in denying the request for an application for a Sensitive Coastal and Coastal Development Permit with a Yard Variance (SCR/CDP/VAR) to maintain, currently in violation, the following improvements located within the minimum 4'-0" required side yard (south) setback: **1.** Combination solid masonry wall approximately 7'-1" in height, with solid wood fencing approximately 1'-6" in height on top (totaling 8'-7"), where a maximum of 6'-0" solid wall/fencing with a maximum of 3'-0" open wall/fencing on top (totaling 9'-0") is permitted; **2.** Trellis/Patio Cover-approximately 8'-8" high, observing a 0'-0" side yard where 4'-0" is the minimum required; and **3.** Equipment room/storage shed (serving an existing in-ground spa) - approximately 8'-8" high, observing a 0'-0" side yard where 4'-0" is the minimum required. The property is developed with a two-story, single-family residence legally described as Lot 6, Neptune Estates, Map No. 3492, located at 7126 Vista Del Mar, within the RS-1-7 Zone (formerly R1-5000).

(CDP/SCR/VAR-99-1366. La Jolla Community Plan area. District-1.)

NOTE: Hearing open. No testimony taken on either 10/24/2000 or 12/12/2000.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution denying the appeal and upholding Planning Commission's decision to deny the Sensitive Coastal Resource Permit and Variance:

(R-2001-) APPEAL WITHDRAWN/NOTED & FILED

Adoption of a Resolution granting or denying the appeal and upholding or overturning the Planning Commission's decision to deny the Sensitive Coastal Resource Permit and Variance No. 99-1366.

OTHER RECOMMENDATIONS:

Planning Commission on August 3, 2000 voted 4 - 2 to deny the request; was opposition.

Ayes: Anderson, White, Steele, Brown

Nays: Stryker, Butler

Not present: Skorepa

On April 6, 2000, the Coastal Development Permit Review Sub-Committee voted 2-4-4 to recommend denial of the application. On May 11, 2000, the Trustees of the La Jolla Community Planning Association voted 12-0-3 to recommend approval of the application.

SUPPORTING INFORMATION:

BACKGROUND

The subject property was developed with the existing two-story, single-dwelling unit in 1971 and is addressed as 7126 Vista Del Mar, located between Vista Del Mar to the east and an access roadway (serving an existing City-owned pump station), and the Pacific Ocean to the west. In addition to the single-dwelling unit, the property was developed with an in-ground spa, a trellis/patio cover, and an equipment/storage room located on a southwesterly portion of the property adjacent to the residence. The remainder of the property is developed with miscellaneous landscape and hardscape.

The approximately 7,400 square-foot legal lot is zoned RS-1-7 (Single-Family Residential) within the La Jolla Community Plan Area, and located within the City of San Diego Coastal Zone (Coastal Commission Appeal Jurisdiction). The surrounding area is designated by the La Jolla Community Plan for low-density, single-family residential development to the north, east and south. Surrounding development within the vicinity consists of one- and two-story single-dwelling units.

The Applicant requested the Sensitive Coastal Resource Permit and Variance in an effort to maintain three improvements located within the 4'-0" required interior side yard setback. The application was initiated, deemed complete and reviewed under Municipal Code regulations in effect prior to enactment of the Land Development Code (LDC) on January 1, 2000. Land

Development regulations of the Municipal Code regulate structures including fencing and walls within required yards/setbacks. Approved variances are required to be obtained to locate overheight walls or other structures within these portions of the property prior to construction. An approved Sensitive Coastal Resource (SCR) Permit is required for the subject property based on a determination that the structure(s) (Improvement Nos. 2 and 3), increase the envelope/footprint of an existing building or accessory structure.

These improvements included the following: 1) A solid masonry wall, 8" in width, 7'-1" in height, with 1'-6" high solid wood fencing on top (totaling 8'-7" in height), and 27' in length. An approximate 1'-0" high portion of the wall retains earth for the adjacent property to the south, also developed with a single-family residence; and 2) A wooden trellis/patio cover (284 sq. ft.) approximately 10'-6" in width, 8'-8" in height, and 27' in length, attached to the south wall of the residence and which extends over an in-ground spa. This structure is constructed of 2" x 6" wood configured in slats, and is attached to wood fencing located atop the masonry wall. The structure provides covered access and privacy to/from the spa and an adjacent bedroom located on the first floor of the residence; and 3) A wooden storage shed (53 sq. ft.) accessed by a doorway from the spa area and measuring approximately 5' in width, 8'-8" in height, and 10'-6" in length, which contains filtering, heating and related equipment to service the spa.

Although the application to maintain these improvements was filed prior to enactment of the LDC, it has been determined that the Applicant will be afforded the benefit of LDC regulations currently in effect. These regulations are beneficial with regard to Improvement No. 1, providing more flexibility in the measurement of fencing, freestanding and retaining walls than those of the previous Municipal Code. These regulations allow the Applicant to maintain the existing combination retaining and freestanding retaining wall at its current height, provided that the solid wood fencing atop the wall is modified to comply with the open fencing design criteria. Should the Applicant choose not to modify the solid wood fencing to comply with the open fencing design criteria, an approved variance is required. An approved building permit is required for fences and/or walls which exceed six feet in height. Should the Applicant choose to reduce the height of the wall to six feet or less, a building permit is not required.

Prior to the Planning Commission hearing, the Applicant demolished the storage shed (Improvement No. 3). On August 3, 2000, the Planning Commission took action and denied the application determining that the findings required to approve the SCR Permit and VAR (pertaining to each improvement) could not be supported. The decision of the Planning Commission to deny the variance request for the combination wall/fence reflected submittal and review of the application under previous Municipal Code regulations.

The remaining wooden trellis/patio cover (Improvement No. 2) continues to require approval of an SCR Permit and VAR to be maintained. This approximately 284 sq. ft. structure is attached to the residence and provides covered access and privacy to/from an in-ground spa adjacent to a bedroom located on the first floor. The Applicant has indicated a desire to maintain this improvement based on privacy concerns.

DISCUSSION

This proposal is to remedy the Notice of Violation for improvements constructed without required permits. The City has made efforts to obtain voluntary compliance from the Applicant to modify or remove these improvements.

Based on staff's review, including testimony and evidence presented at the public hearing, the Planning Commission determined that findings required for approval of the request could not be supported. Therefore, staff recommends the City Council deny the appeal and uphold Planning Commission's decision to deny the request. Should this occur, staff recommends that the resolution of denial reflect direction that within 60 days of the decision date, the Applicant- 1) Modify the solid wood fencing atop the freestanding/retaining wall (Improvement No. 1) to comply with open design criteria of the LDC, acquire a building permit and obtain final inspection; and 2) remove the wood trellis/patio cover (Improvement No. 2).

ALTERNATIVE:

APPROVE the request for a SCR Permit and VAR, making the finding as specified in the Land Development Code.

FISCAL IMPACT: None.

Loveland/Christianson/WCT

LEGAL DESCRIPTION:

The project site is located at 7126 Vista del Mar Avenue, on the west side of Vista del Mar Avenue, north of Fern Glen, in the La Jolla Community Plan area and is more particularly described as Lot 6, Neptune Estates, Map No. 3492.

NOTE: This project has been reviewed and determined to be exempt from the California Environmental Quality Act based on Article 19 of the Guidelines for Categorical Exemptions, Section 15301.1 (Existing Facilities), and there are no environmental issues.

FILE LOCATION: PERM-99-1366 (65)

COUNCIL ACTION: (Tape location: A391-403.)

MOTION BY PETERS TO NOTE AND FILE THIS ITEM IN LIGHT OF THE APPEAL BEING WITHDRAWN. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Stallings-not present, Madaffer-yea, District 8-Vacant, Mayor Murphy-yea.

PUBLIC NOTICE:

Items are listed under Public Notice as a matter of public record only. These items do not require Council action.

ITEM-350: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

Carmel Mountain Ranch Unit 23A-1

COMMUNITY AREA

Carmel Mountain Ranch

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director or Planning and Development Review or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

ITEM-S400: Special Briefing for the Mayor and City Council by the City Attorney covering Gifts and the Disclosure thereof.

ACCEPTED REPORT

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A644-671.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 11:30 a.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A672.)